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AO 241 (Rev. 5/85)

PETITION UNDER 28 USC § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

MICHAEL W. DOBBINS

CLERK, U.S. DISTRICT COURT

<b>United States District Court</b>		District <u>Northern</u>
Name <u>Stevie McNeil</u>	Prisoner No. <u>EB 9701</u>	Case No. <u>DOC 8631</u>
Place of Confinement <u>SCI-Graterford</u>		
Name of Petitioner (include name under which convicted) <u>Stevie McNeil</u>		Name of Respondent (authorized person having custody of petitioner) <u>The People of the State of Illinois</u>
The Attorney General of the State of: <u>Illinois</u>		

## PETITION

- Name and location of court which entered the judgment of conviction under attack The Circuit Court of Cook County, Illinois
- Date of judgment of conviction April 24, 2002
- Length of sentence 90 yrs.
- Nature of offense involved (all counts) Murder in the first degree

08CV4156

JUDGE KENDALL

MAG. JUDGE MASON

## 5. What was your plea? (Check one)

- ☒ (a) Not guilty **G**  
 (b) Guilty **G**  
 (c) Nolo contendere **G**

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

## 6. If you pleaded not guilty, what kind of trial did you have? (Check one)

- ☒ (a) Jury **G**  
 (b) Judge only **G**

## 7. Did you testify at the trial?

Yes **G** No **G** ☒

## 8. Did you appeal from the judgment of conviction?

Yes ☒ **G** No **G**

(2)

FILED

JULY 24, 2008

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

HP

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## 9. If you did appeal, answer the following:

- (a) Name of court The Appellate Court, State of Illinois
- (b) Result DENIED
- (c) Date of result and citation, if known SEPTEMBER 30, 2004
- (d) Grounds raised Judicial Error, Prosecutorial Misconduct, Ineffective Assistance of Counsel, Violation of Due Process and Equal Protection
- (e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

- (1) Name of court SUPREME COURT OF ILLINOIS
- (2) Result DENIED

- (3) Date of result and citation, if known MARCH 30, 2005
- (4) Grounds raised PETITION FOR LEAVE TO APPEAL

## (f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

- (1) Name of court N/A
- (2) Result N/A
- (3) Date of result and citation, if known N/A
- (4) Grounds raised N/A

## 10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

✓ Yes G No G

## 11. If your answer to 10 was "yes," give the following information:

- (a) (1) Name of court Circuit Court of Cook County, Illinois
- (2) Nature of proceeding Motion To Re-Open Case And Vacate Judgement
- (3) Grounds raised Fraud Upon The Court

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(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☒ G No ☒ G(5) Result Denied(6) Date of result November 27, 2007

(b) As to any second petition, application or motion give the same information:

(1) Name of court Circuit Court of Cook County, Illinois(2) Name of proceeding Post Conviction Relief(3) Grounds raised N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☒ G No ☒ G(5) Result Denied(6) Date of result December 14, 2005

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☒ G No ☒ G(2) Second petition, etc. Yes ☒ G No ☒ G(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

I did not appeal on the Post Conviction Relief because the attorney that filed the Petition failed to contact me at any time, therefore I had no knowledge of his filing, nor its dismissal.

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

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For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: Judicial Error, Violation of Due Process and Equal Protection under the Law

Supporting FACTS (state briefly without citing cases or law): DENIED COUNSEL while in custody out of state, denied right to speedy trial after waiver to face trial within 120-180 days, WAS DENIED REPRESENTATION when placed in a prison line-up, Court failed to instruct jury by defining reasonable doubt as well as alibi instructions, and allowing juror who could not understand the English language and hearing impaired to sit on the jury.

B. Ground two: Ineffective Assistance of Counsel

Supporting FACTS (state briefly without citing cases or law): I WAS DENIED the EFFECTIVE ASSISTANCE of COUNSEL at each critical stage in this criminal proceeding. From Pre-trial, Post trial and Appellate process, all counsel's failed to provide adequate assistance. Post Conviction Counsel failed to communicate before and after filing Petition leaving ME without knowledge of its filing or its denial to this very date. Trial counsel failed to call alibi witnesses to testify after filing alibi defense.

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C. Ground three: Prosecutorial Misconduct

Supporting FACTS (state briefly without citing cases or law): Prosecutor attempted to shift burden of proof upon the defense with her comments to the jury, ASSUMES right as 13<sup>th</sup> juror when arguing to jury it wasn't NECESSARY for them to determine the EVIDENCE SINCE "EVERYONE" KNOWS the results before deliberations. K-7-8, 15

D. Ground four: Fraud Upon the Court

Supporting FACTS (state briefly without citing cases or law): The Cook County State's Attorney, along with Chicago Police and state's sole witness colluded in a, "deliberately planned and executed scheme" to mislead and deceive the Petitioner, Court, Jury and the PEOPLE of the State of Illinois by knowingly allowing state witness to give inconsistent false testimony to the Court and jury, by fabricating statements to enhance her testimony.

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not so presented, and give your reasons for not presenting them: \_\_\_\_\_

N/A

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?  
Yes G No G✓

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing Public Defender's Office

(b) At arraignment and plea Public Defender's Office

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- (c) At trial Tony Eben, Public Defender's Office
- (d) At sentencing Tony Eben, Public Defender's Office
- (e) On appeal Miriam Hullbauer, Public Defender's Office
- (f) In any post-conviction proceeding Craig Justin Kate,  
DEERFIELD, ILLINOIS COOKS BOX 167
- (g) On appeal from any adverse ruling in a post-conviction proceeding N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

Yes G No G ✓

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes G No G ✓

(a) If so, give name and location of court which imposed sentence to be served in the future: \_\_\_\_\_

(b) Give date and length of the above sentence: \_\_\_\_\_

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes G No G

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
 Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

June 20, 2008  
 Date

*Steven Kuchail*  
 Signature of Petitioner